

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Thomas J. Butler and Jody Wax

Date application filed with the Town Clerk: March 7, 2006

Nature of request: A Special Permit to modify ZBA FY2001-00025 by moving the exterior staircase for the tenant's unit out from the house by two feet and adding a roof over the stairs.

Address: 433 South Pleasant Street (Map 17A, Parcel 4, R-N Zoning District)

Legal notice: Published on April 12 & 19, 2006 in the Daily Hampshire Gazette and sent to abutters on April 12, 2006.

Board members: Ted Rising, Barbara Ford and Jane Ashby

Submissions: The petitioner submitted a packet of information which contained a set of plans for proposed changes to the house, including the proposed changes for the exterior stairs, a site plan and a Management Plan

Site Visit: April 25, 2006

The Board observed the following at the site visit:

- A large corner lot, screened on the north side where the proposed changes would occur
- The distance from the house to the north property boundary, approximately 50 feet.
- The existing staircase to the second floor that is proposed to be moved
- The difference between the existing house and the proposed plans for adding a dormer and windows
- The neighborhood that is a mix of single-family and multi-family dwellings, with Amherst College open space across South Pleasant Street.

Public Hearing: April 27, 2006

Mr. Butler represented himself at the hearing. He said that he wishes to do two things – expand the owner's part of the house, and move the second means of egress (the exterior staircase) for the apartment, which he rents. In order to move the staircase and put a roof over the staircase landing, a modification of his previous Special Permit is required. Special Permit ZBA FY2001-00025 allowed for the addition of a one-bedroom apartment to his house. Site and building plans for the second unit, including a plan for the staircase were approved at that time, and the applicant is requesting a modification of the staircase plan.

Mr. Butler said that he requested more things in the application than he now wants or that need a Special Permit. He now does not want to add a bedroom to the apartment, and the other proposed changes need only a building permit, since they are for the owner occupied section of the house, and not part of the permitted apartment.

What Mr. Butler is asking the ZBA to approve is his proposal to move the staircase out two feet from the house, and to cover the landing of the staircase.

The applicant will not add a dormer to the apartment, nor add a skylight, change the roofline, or alter the space for the second unit in any way. He will be changing the roofline only for the owner's section of the house via a building permit.

The applicant's submitted Management Plan was reviewed and accepted. The property owners and residents, Mr. Butler and Ms. Wax, are listed as in charge of all maintenance of the property.

Mark Snow, Assistant Building Commissioner, asked about setbacks on the property. It was noted that the parcel size is 37,500 square feet, and setbacks on all sides are at least 50 feet. Parking is available for at least 4 cars.

Ms. Ford moved to close the evidentiary part of the hearing. Ms. Ashby seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board noted the Building Commissioner's ruling that changes to the main part of the house did not need a Special Permit, plus the applicant's decision not to add a second bedroom to the apartment simplified the request to the ZBA immensely. Only the staircase will be considered in this application as a modification to previously granted Special Permit ZBA FY2001-00025. Given that all the setback requirements are met, moving the staircase by two feet has little consequence to the surroundings, but will make it more comfortable to use for the tenant.

Ms. Ford made a motion to accept the withdrawal of the request for the additional bedroom for the apartment and additions to the owner's dwelling unit without prejudice. Ms. Ashby seconded the motion, and the vote was unanimous to withdraw without prejudice the proposal for an additional bedroom for the apartment and additions to the owner's unit.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380, 10.381, 10.382, 10.383 & 10.385 – The proposal is suitably located in the neighborhood because the lot is very large and the slight change of the staircase will not be noticed by abutters, and an exterior staircase is compatible with existing multifamily uses in the neighborhood. The Board did not receive an indication from abutters that the change will be detrimental. The staircase itself will be improved with the addition of the roof over the landing.

10.391, 10.392 & 10.397 – The proposal protects the important scenic features since the change is only two feet on a 37,500 square foot lot. The open lawn area of the property will be unaffected. Screening to protect the adjacent properties is already in place.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw, because a covered second means of egress will protect the inhabitants of the applicant's second unit. In addition, the fact that the house is owner occupied provides assurance that reasonable and appropriate management of the property will continue.

Zoning Board Decision:

Ms. Ford made a motion to APPROVE the proposal, with conditions. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED UNANIMOUSLY to approve a Special Permit to modify Special Permit ZBA FY2001-00025 under Section 10.33 of the Zoning Bylaw to move an exterior staircase and construct a roof over the staircase landing, on the premises at 433 South Pleasant Street (Map 17A /Parcel 4, R-N Zoning District), as submitted in the application filed by Tom Butler and Jody Wax, with conditions.

TED RISING

BARBARA FORD

JANE ASHBY

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.
NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to modify Special Permit ZBA FY2001-00025 under Section 10.33 of the Zoning Bylaw to move an exterior staircase and construct a roof over the staircase landing, on the premises at 433 South Pleasant Street (Map 17A /Parcel 4, R-N Zoning District), as submitted in the application filed by Tom Butler and Jody Wax, subject to the following conditions.

1. The relocation of the stairway on the north side of the house shall be as shown on the plan approved by the Board at a public meeting on April 27, 2006.
2. The apartment unit shall remain as shown on the plan approved at the public hearing of March 1, 2001.
3. The management of the property shall be as described on the management plan submitted for the public hearing of April 27, 2006, and on file in office of the Board of Appeals, Planning Department.
4. Parking, on a regular basis, shall not exceed five cars parking in the spaces as shown on the site plan approved at the public hearing of March 1, 2001.

TED RISING, Chair
Amherst Zoning Board of Appeals

DATE